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The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) PERMITS

Minor Industrial Permit No. **UT0025712**

In compliance with provisions of the Utah *Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "*Act*"),

ENERGY QUEEN MINE

is hereby authorized to discharge from its wastewater treatment facility to receiving waters named

WEST COYOTE WASH,

in accordance with specific limitations, outfalls, and other conditions set forth herein.

This permit shall become effective on September 1, 2018

This permit expires at midnight on August 31, 2023.

Signed this **XXth** day of **Month**, 2018.

Erica Brown Gaddis, PhD
Director

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I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Description of Discharge Point(s).

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit are in violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

<u>Outfall Number</u>	<u>Location of Discharge Point(s)</u>
001	Located at latitude 38°18'45" and longitude 109°18'30". Discharge would be from the mine water treatment system into West Coyote Wash.
002	Located at latitude 38°18'45" and longitude 109°18'30". Discharge would be from the mine water treatment system into West Coyote Wash.
003	Located at latitude 38°18'45" and longitude 109°18'30". Discharge would be from the mine water treatment system into West Coyote Wash.

B. Narrative Standard.

It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum, or other nuisances such as color, odor or taste, or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

C. Specific Limitations and Self-monitoring Requirements.

1. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfall 001, 002, and 003. Such discharges shall be limited and monitored by the permittee as specified below:

Part I
DISCHARGE PERMIT NO. UT0025712
WASTEWATER

Effluent Limitations for Outfalls 001, 002, 003 b/, c/			
Parameter	Monthly Average	Daily Minimum	Daily Maximum
Total Flow, MGD	0.5	NA	NA
TSS, mg/L	20	NA	30
Total Uranium, mg/L	2.0	NA	4.0
Total Radium 226, pCi/L	10	NA	30
Dissolved Radium 226, pCi/L	3	NA	10
COD, mg/L	100	NA	200
Total Zinc, mg/L	0.5	NA	1.0
Total Dissolved Solids, mg/L	NA	NA	1000
Total Dissolved Solids, tons/day a/	Report	NA	1.0
Oil & Grease, mg/L d/	NA	NA	10
pH, standard units	NA	6.5	9.0

NA – Not Applicable; MGD – million gallons per day; mg/L – milligrams per liter

Self-Monitoring and Reporting Requirements				
Parameter	Frequency	Sample Type	Units	Reporting Frequency
Total Flow	Continuous	Recorder	GPM	Monthly
TSS	Monthly	Grab	mg/L	Monthly
Total Uranium	Monthly	Grab	mg/L	Monthly
Total Radium 226	Monthly	Grab	pCi/L	Monthly
Dissolved Radium 226	Monthly	Grab	pCi/L	Monthly
COD	Quarterly	Grab	mg/L	Quarterly
Total Zinc	Quarterly	Grab	mg/L	Quarterly
Total Dissolved Solids	Quarterly	Grab	mg/L	Quarterly
Total Dissolved Solids	Quarterly	Grab	ton/day	Quarterly
Oil & Grease	Quarterly	Grab	mg/L	Quarterly
pH	Monthly	Grab	SU	Monthly

In addition to the above monitoring requirements, the permittee is required to sample and submit the analysis of the pollutants listed in 40 CFR Part 122 Appendix D Table III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) occurring from the first discharge of the facility.

- a/ TDS will be limited to a maximum discharge of 1.0 ton per day or 366 tons per year, with daily maximum tonnages reported monthly. It is the permittee's responsibility to monitor and report the actual discharge of TDS for each monitoring period.
 - b/ There shall be no discharge of floating solids or visible foam in other than trace amounts.
 - c/ There shall be no discharge of sanitary wastes.
 - d/ An Oil and grease sample shall be taken when a sheen is visible.
2. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: at the outfalls of the final treatment prior to mixing with any receiving water.

D. Reporting of Monitoring Results.

1. Reporting of Wastewater Monitoring Results Monitoring results obtained during the previous month shall be summarized for each month and reported via NetDMR, or on a Discharge Monitoring Report Form (EPA No. 3320-1)¹, post-marked or entered into NetDMR no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part V.G)*, and submitted by NetDMR, or to the Division of Water Quality at the following address:

Department of Environmental Quality
Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870

¹ Starting January 1, 2017 monitoring results must be submitted using NetDMR unless the permittee has successfully petitioned for an exception.

II. STORMWATER DISCHARGE REQUIREMENTS

A. Coverage of This Section.

1. Discharges Covered Under This Section. The requirements listed under this section shall apply to storm water discharges from active and inactive metal mining and ore dressing facilities [Standard Industrial Classification (SIC) Major Group 10] if the storm water has come into contact with, or is contaminated by, any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation. SIC Major Group 10 includes establishments primarily engaged in mining, developing mines, or exploring for metallic minerals (ores) and also includes all ore dressing and beneficiating operations, whether performed at mills operated in conjunction with the mines served or at mills, such as custom mills, operated separately. For the purposes of this part of the permit, the term "metal mining" includes all ore mining and/or dressing and beneficiating operations, whether performed at mills operated in conjunction with the mines served or at mills, such as custom mills, operated separately. All storm water discharges from inactive metal mining facilities and the storm water discharges from the following areas of active, and temporarily inactive, metal mining facilities are the only discharges covered by this section of the permit: topsoil piles; offsite haul/access roads if off active area; onsite haul roads if not constructed of waste rock or if spent ore and mine water is not used for dust control; runoff from tailings dams/dikes when not constructed of waste rock/tailings and no process fluids are present; concentration building, if no contact with material piles; mill site, if no contact with material piles; chemical storage area; docking facility, if no excessive contact with waste product; explosive storage; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/inadequately reclaimed areas or areas not released from reclamation bonds.
2. Limitations on Coverage. The following storm water discharges associated with industrial activity are not authorized by this permit.
 - a. Discharges from active metal mining facilities that are subject to the effluent limitation guidelines for the Ore Mining and Dressing Point Source Point Source Category (40 CFR Part 440). Coverage under this permit does not include adit drainage or contaminated springs or seeps at active facilities, temporarily inactive facilities, or inactive facilities. Also see Limitations on Coverage, *Part I.b.*
 - b. Storm water discharges associated with an industrial activity that the Director has determined to be, or may reasonably be expected to be, contributing to a violation of a water quality standard.
 - c. Storm water discharges associated with industrial activity from inactive mining operations occurring on Federal lands where an operator cannot be

identified.

3. Co-Located Industrial Activity. When an industrial facility, described by paragraph *a.* above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility. The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.
- B. Special Definitions. The following definitions are only for this section of the permit and are not intended to supersede the definitions of active and inactive mining facilities established by *40 CFR 122.26(b)(14)(iii)*:
1. "Active Metal Mining Facility" is a place where work or other related activity to the extraction, removal, or recovery of metal ore is being conducted. With respect to surface mines, an "active metal mining facility" does not include any area of land on or in which grading has been completed to return the earth to a desired contour and reclamation work has begun.
 2. "Inactive Metal Mining Facility" means a site or portion of a site where metal mining and/or milling activities occurred in the past but is not an active metal mining facility, as defined in this permit and that portion of the facility does not have an active mining permit issued by the applicable (federal or state) governmental agency.
 3. "Temporarily Inactive Metal Mining Facility" means a site or portion of a site where metal mining and/or milling activities occurred in the past, but currently are not being actively undertaken, and the facility has an active mining permit issued by the applicable (federal or state) government agency that authorizes mining at the site.
- C. Storm Water Pollution Prevention Plan Requirements.
1. Contents of Plan for Active and Temporarily Inactive Metal Mining Facilities. The plan shall include, at a minimum, the following items:
 - a. Pollution Prevention Team. Identification of a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities

of the team shall address all aspects of the facility's storm water pollution prevention plan.

- b. Description of Mining Activities. A description of the mining and associated activities taking place at the site that affect or may affect storm water runoff intended to be covered by this permit. The description shall report the total acreage within the mine site, an estimate of the number of acres of disturbed land and an estimate of the total amount of land proposed to be disturbed throughout the life of the mine. A general description of the location of the mining site relative to major transportation routes and communities shall also be provided.
- c. Description of Potential Pollutant Sources. A description of potential sources that may reasonably be expected to add significant amounts of pollutants (including sediment) to storm water discharges or that may result in the discharge of pollutants during dry weather. Each description shall identify all activities and significant materials that may potentially be significant storm water pollutant sources from the active mining activity (see paragraph a.), including, at a minimum:

- 1) Drainage.

- a) A site topographic map that indicates, at a minimum: mining/milling site boundaries and access and haul roads; the location of each storm water outfall and an outline of the portions of the drainage area that are within the facility boundaries; equipment storage, fueling and maintenance areas; materials handling areas; storage areas for chemicals and explosives; areas used for storage of overburden, materials, soils or wastes; location of mine drainage (where water leaves mine) or any other process water; tailings piles/ponds, both proposed and existing; heap leach pads; points of discharge from the property for mine drainage or any other process water; springs, streams, wetlands and other surface waters; and boundary of tributary areas that are subject to effluent limitations guidelines. In addition, the map must indicate the types of discharges contained in the drainage areas of the outfalls.
- b) Prediction of the direction of flow, and identification of the types of pollutants (e.g., heavy metals, sediment) that are likely to be present in storm water discharges associated with industrial activity, for each area of the mine/mill site that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant

amounts of pollutants. Factors to consider include the mineralogy of the ore and waste rock (e.g., acid forming), toxicity and quantity of chemical(s) used, produced or discharged; the likelihood of contact with storm water; vegetation on site if any, and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

- c) **Inventory of Exposed Materials.** An inventory of the types of materials handled at the site that potentially may be exposed to precipitation for each storm water outfall that may be covered under this permit (see paragraph 1.). Such inventory shall include a narrative description of: significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. The inventory of exposed materials shall include, but shall not be limited to the significant materials stored exposed to storm water, and material management practices employed that were listed for the facility in the approved group application. A summary of any existing ore or waste rock/overburden characterization data, including results of testing for acid rock generation potential. If the ore or waste rock/overburden characterization data is updated due to a change in the ore type being mined, the storm water pollution prevention plan shall be updated with the new data.
- 2) **Spills and Leaks.** A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of submission of a *Notice of Intent (NOI)* to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.
- 3) **Sampling Data.** A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility,

including a summary of sampling data collected during the term of this permit.

- 4) Risk Identification and Summary of Potential Pollutant Sources. A narrative description of the potential pollutant sources from the following activities associated with metal mining: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., heavy metals, etc.) of concern shall be identified.
- d. Measures and Controls. A description of storm water management controls appropriate for the facility, and procedures for implementing such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:
- 1) Good Housekeeping. Good housekeeping such as maintenance in a clean, orderly manner of areas that may contribute pollutants to storm water discharges. (For suggested measures for vehicle maintenance operations, see good housekeeping measures specified in *Appendix II.G.* for transportation facilities.)
 - 2) Preventive Maintenance. A narrative describing the program for timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspection and testing of facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. Particular attention shall be given to erosion control and sediment control systems and devices.
 - 3) Spill Prevention and Response Procedures. Areas where potential spills that can contribute pollutants to storm water discharges, and their accompanying drainage points. The description area shall include, where appropriate, specific material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered; procedures for cleaning up spills and the method for making these plans and the necessary equipment to implement a cleanup available to the appropriate personnel.

- 4) Inspections. Provisions for qualified personnel to inspect designated equipment and mine areas at least on a monthly basis for active sites. The monthly inspections can be done at any time during the month and do not have to be done immediately following a precipitation event. For temporarily inactive sites, the inspections should be quarterly; however, inspections are not required when adverse weather conditions (e.g., snow) make the site inaccessible. All material handling areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion control systems and sediment control devices shall also be inspected to determine if they are working properly. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist developed by the facility is encouraged.
- 5) Employee Training. Outlines of employee training programs that inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, and material management practices. The pollution prevention plan shall specify how often training shall take place, but in all cases training must be held at least annually (once per calendar year).
- 6) Recordkeeping and Internal Reporting Procedures. Descriptions of incidents (such as spills, major storm events, or other discharges), as well as information describing the quality and quantity of storm water discharges. Inspections, maintenance activities, and training sessions shall also be documented and records of such activities shall be incorporated into the plan.
- 7) Non-storm Water Discharges.
 - (a) Certification. A certification that any discharge has been tested or evaluated for the presence of non-storm water discharges, such as seeps or adit discharges or discharges subject to effluent limitation guidelines (e.g., *40 CFR Part 440*), such as mine drainage or process water of any kind. The certification shall include the identification of potential significant sources of non-storm water or water subject to effluent limitation guidelines at the site, a description of the

results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with *Part V.G.* of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director.

Alternatively, the plan may include a certification that any non-storm water discharge that mixes with storm water is subject to a separate *UPDES* permit that applies applicable effluent limitations prior to the mixing of non-storm water and storm water. In such cases, the certification shall identify the non-storm water discharge(s), the applicable *UPDES* permit(s), the effluent limitations placed on the non-storm water discharge by the *UPDES* permit(s), and the point(s) at which the limitations are applied.

- (1) Exceptions. Except for flows from fire fighting activities, sources of non-storm water listed in Part II.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.
- (2) Failure to Certify. Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director within 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water

discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the State that are not authorized by a UPDES permit are unlawful, and must be terminated.

- 8) Sediment and Erosion Control. Identification of areas that, due to topography, activities, or other factors, have a high potential for significant erosion of soil and/or other materials, and measures to be used to limit erosion and/or remove sediment from storm water runoff. The measures to consider include diversion of flow away from areas susceptible to erosion (such as interceptor dikes and swales; diversion dikes curbs and berms; pipe slope drains; subsurface drains; and drainage/storm water conveyance systems [channels or gutters; open top box culverts, and waterbars; rolling dips and road sloping; roadway surface water deflector; and culverts]), stabilization methods to prevent or minimize erosion (such as temporary or permanent seeding; vegetative buffer strips; protection of trees; topsoiling; soil conditioning; contouring; mulching; geotextiles [matting; netting; or blankets]; riprap; gabions; and retaining walls), and structural methods for controlling sediment (such as check dams; rock outlet protection; level spreaders; gradient terraces; straw bale barriers; silt fences; gravel or stone filter berms; brush barriers; sediment traps; grass swales; pipe slope drains; earth dikes; other controls such as entrance stabilization, waterway crossings or wind breaks; or other equivalent measures).
- 9) Management of Runoff. A narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site and provisions for implementation and maintenance of measures that the permittee determines to be reasonable and appropriate. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph 3.A.3) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices, or

impoundments.

- 10) Capping. Where capping of a contaminant source is necessary, the source being capped and materials and procedures used to cap the contaminant source must be identified. In some cases, the elimination of a pollution source through capping contaminant sources may be the most effective control measure for discharges from inactive ore mining and dressing facilities.
 - 11) Treatment. A description of how storm water will be treated prior to discharging to waters of the State if treatment of a storm water discharge is necessary. Storm water treatments include the following: chemical/physical treatment; oil/water separators; and artificial wetlands.
- e. Comprehensive Site Compliance Evaluation. Procedures for qualified personnel to conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall include:
- 1) Visual inspections of areas contributing to a storm water discharge associated with industrial activity for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.
 - 2) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph C.1.c) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph C.1.d) of this section (Measures and Controls) shall be revised as appropriate within 30 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation unless additional time is authorized by the Director.
 - 3) Preparation of a report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water

pollution prevention plan, and actions taken in accordance with paragraph C.1.e.2)) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part V.G. (Signatory Requirements) of this permit.

- 4) Where annual site compliance evaluations are shown in the plan to be impractical for inactive mining sites due to the remote location and inaccessibility of the site, site evaluations required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in 3 years.

D. Numeric Effluent Limitations. There are no additional numeric effluent limitations beyond those described in Part I.D of this permit.

E. Monitoring and Reporting Requirements.

1. Analytical Monitoring Requirements. Copper ore mining and dressing facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 1 and 3 except as provided in paragraphs E.1.c) (Sampling Waiver), E.1.d) (Representative Discharge), and E.1.e) (Alternative Certification). Active copper ore mining and dressing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table below. Facilities must report in accordance with E.2. (Reporting). In addition to the parameters listed in Table below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

**Table G-1.
Monitoring Requirements for Active Facilities**

Pollutants of Concern	Monitoring Cut-Off Concentration
Chemical Oxygen Demand (COD)	120 mg/L
Total Suspended Solids (TSS)	100 mg/L
Nitrate plus Nitrite Nitrogen	0.68 mg/L

- a. Monitoring Periods. Active ore mining and dressing facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph 1. (above).
- b. Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.
- c. Sampling Waiver.
 - 1) Adverse Conditions. When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).
 - 2) Low Concentration Waiver. When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period January 1, 2012, lasting through December 31, 2012, is less than the corresponding value for that pollutant listed in Table under the column Monitoring Cut-Off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning January 1, 2014, lasting through December 31, 2014. The facility must submit to the

Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

- d. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the *Storm Water Discharge Monitoring Report (SWDMR)*.
 - e. Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of the monitoring reports required under paragraph 2) below, under penalty of law, signed in accordance with *Part V.G.* (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph 2) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.
2. Reporting. Permittees with active copper ore mining and dressing facilities shall submit monitoring results for each outfall associated with industrial activity or a certification in accordance with sections c, d, or e above] obtained during the

reporting period beginning January 1, 2012, lasting through December 31, 2012, on *Storm Water Discharge Monitoring Report (SWDMR)* form(s) postmarked no later than the 31st day of the following March. Monitoring results [or a certification in accordance with sections c, d, or e above] obtained during the period beginning January 1, 2014, lasting through December 31, 2014 shall be submitted on *SWDMR* form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed *SWDMR* form must be submitted to the Director per storm event sampled. Signed copies of *SWDMR*, or said certifications, shall be submitted to the Director at the address listed in *Part V.B.* of this permit.

- a. Additional Notification. In addition to filing copies of *SWDMRs* in accordance with paragraph 2. (above), active ore mining and dressing facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph 2. (above).
3. Visual Examination of Storm Water Quality. Mining facilities covered under this sector shall perform and document a visual examination of storm water discharges associated with industrial activity from each outfall, except discharges exempted below. The examination must be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event. Mining facilities must examine storm water quality at least once in each of the following periods: January through March; April through June; July through September; and October through December.
 - a. Sample and Data Collection. Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well-lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.
 - b. Visual Storm Water Discharge Examination Reports. Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the

storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

- c. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.
- d. Adverse Conditions. When a discharger is unable to conduct one of the required visual examinations during the required period as a result of adverse climatic conditions or inaccessibility, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).
- e. Inactive and Unstaffed Site. When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.
- E. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10* or as otherwise specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- F. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) and time(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and,
 6. The results of such analyses.
- G. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

H. Twenty-four Hour Notice of Noncompliance Reporting.

1. The permittee shall (orally) report any noncompliance which may seriously endanger health or environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 536-4300, or 24 hour answering service (801) 536-4123.
2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See *Part IV.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part IV.H, Upset Conditions.*); or,
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.
3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected;
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 536-4300.
5. Reports shall be submitted to the addresses in *Part III.D, Reporting of Monitoring Results.*

- I. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part III.D* are submitted. The reports shall contain the information listed in *Part III.I.3*.
- J. Inspection and Entry. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 - 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
 - 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
 - 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the *Act*, any substances or parameters at any location.

IV. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The *Act* provides that any person who violates a permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine not exceeding \$25,000 per day of violation; Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part IV.G, Bypass of Treatment Facilities* and *Part IV.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.
 - 1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to 2. and 3. of this section.

2. Prohibition of Bypass.

- a. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
 - (3) The permittee submitted notices as required under section G.3.
- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in sections G.2a. (1), (2) and (3).

3. Notice.

- a. Anticipated bypass. Except as provided above in section G.2. and below in section G. 3.b, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Director:
 - (1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
 - (2) A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee must notify the Director in advance of any changes to the bypass schedule;
 - (3) Description of specific measures to be taken to minimize environmental and public health impacts;
 - (4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;

- (5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and
 - (6) Any additional information requested by the Director.
- b. Emergency Bypass. Where ninety days advance notice is not possible, the permittee must notify the Director, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Director the information in section G.3.a.(1) through (6) to the extent practicable.
 - c. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass to the Director as required under Part III.I., Twenty Four Hour Reporting. The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. of this section are met. Director's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
- 2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Part III.I., Twenty-four Hour Notice of Noncompliance Reporting; and,
 - d. The permittee complied with any remedial measures required under Part IV.D, Duty to Mitigate.
- 3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

- I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- J. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:
1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.5(7)* or (10); or,
 - d. The level established by the Director in accordance with *UAC R317-8-4.2(6)*.
 2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred micrograms per liter (500 ug/L);
 - b. One milligram per liter (1 mg/L) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.5(9)*; or,
 - d. The level established by the Director in accordance with *UAC R317-8-4.2(6)*.
- K. Industrial Pretreatment. Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment

regulations. Pursuant to Section 307 of *The Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

V. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Director of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
 - 1. All permit applications shall be signed by either a principal executive officer or ranking elected official
 - 2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized

representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described above and submitted to the Director, and,
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under paragraph V.G.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph V.G.2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
 4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- H. Penalties for Falsification of Reports. The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.

- I. Availability of Reports. Except for data determined to be confidential under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Director. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provisions of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers. This permit may be automatically transferred to a new permittee if:
 - 1. The current permittee notifies the Director at least 20 days in advance of the proposed transfer date;
 - 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 - 3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- N. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117*.
- O. Water Quality-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:

1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- P. Toxicity Limitation-Reopener Provision This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is suspected during the life of this permit.
- Q. Storm Water-Reopener Provision. At anytime during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to “waters-of-the-State”.

VI. DEFINITIONS

A. Definitions.

1. The "30-day and monthly average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
2. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.
3. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
4. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
5. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
6. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
7. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
8. "Director" means the Director of the Division of Water Quality.
9. "EPA" means the United States Environmental Protection Agency.
10. "Act" means the "*Utah Water Quality Act*".
11. "Best Management Practices" ("*BMP's*") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. *BMP's* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

12. "CWA" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
13. "Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agriculture storm water runoff.
14. "Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under *Section 311* of the *Clean Water Act* (see *40 CFR 110.10* and *40 CFR 117.21*) or *Section 102* of *CERCLA* (see *40 CFR 302.4*).
15. "Waste pile" means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

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